

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE:) BK. NO: 24-40605-BTR
)
REMARKABLE HEALTHCARE)
OF CARROLLTON, LP)
D E B T O R.)

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TRANSCRIPT OF PROCEEDINGS

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BE IT REMEMBERED, that on the 2nd day of April, 2024,
before the HONORABLE BRENDA T. RHOADES, United States
Bankruptcy Judge at Plano, Texas, the above styled and
numbered cause came on for hearing, and the following
constitutes the transcript of such proceedings as hereinafter
set forth:

CINDY SUMNER, CSR (214) 802-7196

I N D E X

PAGE

JON McPIKE

DIRECT EXAMINATION

BY: Ms. Rahn

14

CROSS-EXAMINATION

BY: Mr. Carruth

15

BY: Ms. Klein

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RECROSS-EXAMINATION

BY: Mr. Carruth

33

P R O C E E D I N G S

COURTROOM DEPUTY: Page 7, number 19,

Remarkable Healthcare of Carrollton, LP, 24-40605. Final hearing on motion to pay pre-petition salaries and wages.

THE COURT: All right. Appearances.

MS. RAHN: Yes, Your Honor, this is Alexandria Rahn on behalf of the debtors, Remarkable Healthcare.

MS. KLEIN: Good afternoon, Your Honor. Buffey Klein, Husch Blackwell, on behalf of Alleon Capital Partners.

THE COURT: Okay.

MR. WEISBART: Mark Weisbart the Subchapter V Trustee.

MR. CARRUTH: Jeff Carruth on behalf of the KRS landlord entities. Also on the line with us is Randy Glen, who is co-counsel on the healthcare issues and our principal, Josh Kilgore also on the line today.

THE COURT: Okay.

All right. Where are we?

MS. RAHN: Your Honor, we're here today to talk about the final -- a final hearing for the pre-petition wages and other benefits continuing forward. And in the -- it's all laid out in the motion at docket number 5. And reflected therein the upcoming payroll that's due this Friday covers the stub period of March 18th through 19th, which

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1 accrued approximately \$105,000 in pre-petition wage
2 obligations plus the amounts that are post-petition, which
3 will be approximately \$550,000. We do not have that exact
4 figure yet, because they will not be available until this
5 evening.

6 THE COURT: Okay. But the motion today is
7 just to pay the -- it's a final hearing on the pre-petition
8 wages motion, right?

9 MS. RAHN: Correct, Your Honor.

10 THE COURT: Okay.

11 MS. RAHN: And we still have the objection by
12 the landlord here. And we would -- we would like it if the
13 McPikes do receive their salaries going forward. Because in
14 the interim motion they -- the McPikes and their family did
15 not receive any of their pre-petition benefits.

16 THE COURT: Okay. Again, today -- well, I
17 guess your pre-petition wage motions request some kind of
18 relief related to post-petition -- let's see.

19 MS. RAHN: This pay period includes two days
20 of pre-petition wages.

21 THE COURT: Okay. So let me hear from
22 Mr. Carruth. What's the objection?

23 MR. CARRUTH: Well, Your Honor, I think as we
24 articulated last time, the objection is if cash is short and
25 we're raking and scraping to make one property payroll for

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1 employee safety, health, and welfare, then the principals who
2 have control of the finances should not take another
3 paycheck. Especially at the high salaries that they have
4 been enjoying throughout. They've been paying themselves and
5 not paying the landlord, also. There's \$3 million in
6 arrearage to the landlord.

7 I think the additional concern today is -- and this
8 kind of goes back to not necessarily right in line with this
9 motion, most of which is -- was sort of decided or determined
10 last time. But I think the issue is whether or not the
11 remaining -- whether the debtors have money and whether
12 Seguin has money, in particular for upcoming payroll. And
13 that -- there's two or three drivers of that. One is whether
14 there are additional funds available from West Wharton. How
15 much are those funds? What is the total payroll? We're
16 unclear and uncertain as to the status of the funding from
17 West Wharton. The debtor says they have it. We're not sure
18 that that's exactly the case because we have not seen
19 documents, emails, or anything to confirm that.

20 And then the second issue is whether or not last time
21 when they -- it was explained that there was money for the
22 Seguin payroll, whether or not that money -- some of that
23 money actually came from other debtors and whether there was
24 commingling. And so, you know, we --

25 THE COURT: Commingling because these are

1 separate estates, you mean?

2 MR. CARRUTH: Yes, Your Honor.

3 THE COURT: Okay.

4 MR. CARRUTH: So there was funds pulled from
5 the other three properties in order to get up to the 120 or
6 thereabouts for the funds that they used for the Seguin
7 payroll on the emergency roughly 10 days ago.

8 So, you know, this motion, what's left of this motion
9 may have fairly narrow relief. But, you know, the global
10 issue is that they've kind of been driving this case along
11 the way it remain. And so that's what our concern is today.

12 THE COURT: Okay. So you're saying they
13 shouldn't get paid because they're insiders, that's the first
14 part I heard.

15 MR. CARRUTH: Yes, Your Honor.

16 THE COURT: Is that accurate?

17 MR. CARRUTH: Correct.

18 THE COURT: And second, you're concerned about
19 the commingling of assets of the estate?

20 MR. CARRUTH: Correct, Your Honor.

21 THE COURT: Okay. Is there anything else?

22 MR. CARRUTH: We have been trying to get
23 PointClickCare access for all of the properties. We've
24 received PointClickCare access for three of the properties
25 from the last 24 to 48 hours, but not the Seguin property.

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1 That -- we're trying to get that access also in case there is
2 another emergency and we have to intervene or assist with
3 that property, as well. That gives us the financial
4 information for receivables, expenses, things of that nature
5 in case we have to step in and prepare to take over the
6 property. So -- it's also a patient care issue because we
7 have to have resources lined up to care for the patients in
8 case the Seguin property also faces difficulties.

9 THE COURT: Okay. Let's start with I think
10 all I reserved for the final hearing purposes on the
11 pre-petition wages motion was the payment of wages to the
12 insiders, right, the principals, because the payment to the
13 other employees were allowed at the interim hearing, right?
14 So I'd like to hear about who you're proposing to pay now on
15 a final basis, how much they are being paid, what services
16 are being performed, and how many hours they're working for
17 it, et cetera.

18 MS. RAHN: Yes, Your Honor.

19 So the three individuals are Laurie Mc -- Laurie Beth
20 McPike, Jon McPike, and Chris McPike. And each pay period
21 Laurie McBeth (sic) receives \$6,534.80. And her job
22 responsibilities include managing cash collections team and
23 doing a daily detailed review of the outstanding accounts
24 receivable. She has oversight of the debtors' human
25 resources team, including daily analysis of labor costs,

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1 personnel action process, employee management. She has
2 oversight of the therapy teams. She has oversight over all
3 financial compilations and analysis of the trending data for
4 all operations. And she looks at that and then creates
5 improvement actions plans based on those results. She also
6 reviews any documents in kind of a legal aspect and she has
7 oversight over all operations and the leaders of the company.
8 And since this bankruptcy has begun, she's continued to work.

9 We have been working with the landlords to transition
10 the management and operations of the three facilities that
11 are in the DFW area. And we're still working on negotiating
12 the individual logistics of all of that. But at this time
13 she's still working full time for the debtors to keep these
14 facilities running.

15 The next person on the list is Jon McPike, who he
16 receives each paycheck \$4,717.37.

17 THE COURT: Okay. 4,000 what?

18 MS. RAHN: \$717.37.

19 THE COURT: Okay.

20 Q. His job responsibilities include daily operations,
21 oversight of all four locations, regulatory management, daily
22 cash management, the regional team management. He has daily
23 contact with the facilities' leadership and discusses any
24 operational issues and improvements. He's in charge of
25 metric management, the quality assurance and performance

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1 improvement oversight. And he, once an action plan is
2 implemented -- or once an action plan has been decided on,
3 he's the person that implements those based on Laurie
4 Beth's -- the plan.

5 And then the last McPike is Chris McPike. And he
6 receives \$2,884.61. He assists in the back office with all
7 of the IT needs, including computer setup and repair, phone
8 system management, new employee setup. He also is kind of
9 the account manager in that he completes payroll and runs all
10 payroll checks and then delivers them to each of facilities.
11 Like all other employees, the McPikes also live paycheck to
12 paycheck and do not and have not taken anything above their
13 salaries from any of the Remarkable entities. So it's really
14 imperative that they do continue to earn a paycheck while
15 this is continuing on.

16 THE COURT: Okay. How many pay periods a
17 year?

18 MS. RAHN: It's a bimonthly, so it's two, so
19 24.

20 THE COURT: Okay. So every -- every 15 days?

21 MS. RAHN: Correct, Your Honor.

22 THE COURT: Okay. So Laurie Beth is 13,069 a
23 month? And Jon is 9,434 a month? And Chris is 5,768 a
24 month?

25 MS. RAHN: That sounds right.

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1 THE COURT: Okay. So is this the work they've
2 done for all of the facilities, or just the Seguin facility?
3 Because all -- the other facilities are now being run by
4 others, right, by the landlord, or --

5 MS. RAHN: Correct, Your Honor. But this is
6 also for the work that was done from March 18th through 31st.
7 So the -- it was as of -- first of all, the new management
8 hasn't completely -- we haven't completely made the
9 transition, so the McPikes have been having to work the same
10 that they would have to facilitate this transition. And they
11 are still doing work with the Seguin property. So for the
12 amounts being asked for right now, it would be for the --
13 they were working full time and running these facilities
14 during this transition.

15 THE COURT: Okay. And what would -- what is
16 the market for a person doing the same work as Ms. Laurie
17 Beth McPike? Do we have any information or evidence about
18 that?

19 MS. RAHN: From what I have been told by the
20 debtor, which I can call Jon McPike to testify to this, if
21 you'd like. Her salary is a fraction of what someone in her
22 capacity would normally earn, because she is doing so many --
23 she's wearing so many different hats when it comes to cash
24 collections and then prior -- during and prior, she's been
25 trying to find new financing for the debtors. And it

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1 normally would require multiple personnel, but she's working
2 seven days a week in order to be able to make these things
3 happen.

4 What Mr. McPike does is that he also is the -- in
5 charge of a bunch of different teams in the operations. And
6 that anyone that would come in to manage this would have to
7 also work seven days a week and it will cost what he believes
8 would be double the current salary he takes.

9 And then Chris, he's in charge of all payroll services,
10 IT services. He's plant operations assistant. The
11 accounting clerk.

12 THE COURT: All of those things that you're
13 talking about is for all the different debtors, right, not
14 just the Seguin property?

15 MS. RAHN: Correct, Your Honor.

16 THE COURT: So --

17 MS. RAHN: So those may -- depending on how
18 the transition works, what the landlords -- how they'll stay
19 on in those positions, that could change moving forward. But
20 right now for at least this -- at the time being, they are
21 currently still doing their full positions.

22 THE COURT: Okay. What is Laurie Beth
23 McPike's qualifications?

24 MS. RAHN: Yes, Your Honor. So Laurie Beth
25 has been in healthcare leadership for 30 years. Most

1 recently she was the president of the Texas Region for the
2 Health South Corporation from 2004 to 2009. She assumed the
3 operational responsibility and accountability for a \$280
4 million business until employing over 3,100 employees.

5 THE COURT: Okay. And what was her salary at
6 that time?

7 MS. RAHN: I do not have that information.

8 THE COURT: Okay.

9 MS. RAHN: I can put together a supplement, if
10 you'd like.

11 THE COURT: I don't know that I will need it
12 yet, but, okay.

13 MS. RAHN: Okay. So she's -- she's worked in
14 the industry. And before she was working in leadership in
15 the healthcare industry, she was a licensed physical
16 therapist. And so -- she's used that distinct clinical
17 background in order to facilitate her leadership I the
18 healthcare arena. And she originally came to Texas as a
19 program director for the brain injury and stroke programs of
20 a start-up rehabilitation hospital in Austin. So she has
21 really extensive experience in the healthcare leadership
22 sector.

23 THE COURT: Okay. And Jon McPike?

24 MS. RAHN: He also has 30 years experience.

25 He was the assistant director of -- or he was an assistant

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1 director for the Dallas County Ombudsman Program for the
2 Texas Department of Aging. He was also an activities
3 director at the beginning of his career. He has his Texas
4 Nursing Home Administrator's License. And has successfully
5 turned around several failing nursing facilities achieving
6 financial operational and clinical success. He was -- an
7 area administrator, he led six (inaudible word) facilities
8 through the acquisition/transition process and successful
9 change of ownership surveys. He was also the chief executive
10 officer of Health South Rehabilitation Hospital of Fort
11 Worth, most recently.

12 THE COURT: Okay.

13 MS. RAHN: And he holds several different
14 board member positions of key associations such as The
15 Alzheimer's Association and Arthritis Foundation.

16 THE COURT: Okay. And Chris?

17 MS. RAHN: I do not have any -- much
18 background information on Chris. But I can get that for you.
19 Or I can ask -- Mr. McPike could testify to it, if you would
20 like for me to call him.

21 THE COURT: Your hearing. Your evidence.

22 MS. RAHN: Can I call Mr. Jon McPike --

23 THE COURT: Certainly.

24 MS. RAHN: -- to the stand?

25 (The witness was sworn by the courtroom deputy.)

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1 JON McPIKE

2 The witness, having been duly sworn to tell the truth,
3 testified on his oath as follows:

4 DIRECT EXAMINATION

5 BY MS. RAHN:

6 Q. Mr. McPike, could you tell me a little bit about
7 your relationship to Chris McPike?

8 A. He's my son.

9 Q. Great. And could you tell me what his background
10 is?

11 A. Yes. He's actually done a variety of things. He
12 managed a private baseball association in Keller where he
13 managed all of the operations; their back office payables,
14 their pot operations for field repair, and their payroll.

15 Q. Is there anything that I didn't say about your
16 background that you would like to highlight for the Court?

17 A. No. I think you did a good job summarizing my
18 background. It's closer to 37 years, almost 40 in
19 operations, including hospital leadership and multiple
20 facility management. Laurie Beth has -- she ran all 14
21 free-standing hospitals for Health South in Texas. And all
22 of their -- all of their satellite businesses, as well, like
23 hospice, home health surgical centers, outpatient centers for
24 the State of Texas for ten years.

25 Q. Great.

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1 MS. RAHN: I do not have any other questions.

2 THE COURT: Okay. Did you have any cross?

3 Did you wish to cross-examine the witness?

4 MR. CARRUTH: Yes, Your Honor, if I may.

5 THE COURT: You may.

6 CROSS-EXAMINATION

7 BY MR. CARRUTH:

8 Q. Mr. McPike, the -- your responsibilities as to the
9 Dallas, Carrollton, and Fort Worth properties at this point
10 are assisting in the transition?

11 A. Not yet.

12 Q. And why --

13 A. We haven't begun the transition yet.

14 Q. Okay. But once the transition begins, that's going
15 to be your primary responsibility?

16 A. Yes.

17 Q. Okay. And what is holding up the transition at
18 this point?

19 A. I don't believe we've come to terms, counselor. We
20 had one call for about an hour Friday and we haven't had
21 another since.

22 Q. Okay. And -- but that process requires your
23 involvement in a smooth hand off?

24 A. That's correct, it does.

25 Q. And with respect to all of the -- so right now

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1 you're asking for a salary from all of the properties, all
2 four properties, or that's your intention going forward is a
3 salary on all four properties until the transition?

4 A. Yes.

5 Q. Okay. And what's the source of funding for that
6 salary?

7 A. Cash collections.

8 Q. On what -- on what AR?

9 A. On the current AR of the facilities.

10 Q. And what is the status of funding from West
11 Wharton?

12 A. According to West Wharton yesterday and this
13 morning, everything is fine. And that should fund on
14 Thursday.

15 Q. And how much will fund on Thursday?

16 A. I sent that in today. It should be somewhere close
17 to \$700,000.

18 Q. And that will be a lump sum payment from West
19 Wharton to the debtors?

20 A. That's correct.

21 Q. And then on -- originally on the first payroll when
22 we were here roughly ten days ago on Seguin, you said that
23 you had about \$120,000 in cash to use on the Seguin payroll?

24 A. That's correct.

25 Q. And that's why you told the Court that the stay

1 should not be lifted as to Seguin because you could make the
2 Seguin payroll?

3 A. That's correct.

4 Q. Did the Seguin payroll money come only from Seguin
5 collections?

6 A. I do not know the answer to that.

7 Q. Who would know the answer to that?

8 A. Well, it would come from me, but I haven't looked
9 at what money was returned from Alleon from the prior day
10 sweeps that it wasn't supposed to sweep, which is what we use
11 to fund that payroll. So I'd have to go back and look at the
12 bank accounts. I haven't done that.

13 Q. Do you know how much money was in the Seguin
14 account as of the date that you filed bankruptcy?

15 A. I have no idea. Because all monies were swept
16 from -- when the monies are swept from all of the accounts,
17 Alleon then sends them back into one account. And then all
18 bills are paid out of one account from all of the monies that
19 are collected across all facilities. That's the way all
20 healthcare companies have their cash set up. So there's
21 no -- I have no way of knowing what was in what account on
22 the day we filed bankruptcy.

23 Q. Okay. So right, wrong, or indifferent, your
24 testimony today is that the commingling was just kind of
25 built into the system?

1 A. That's correct.

2 Q. So if West Wharton does not fund the \$700,000 lump
3 sum payment, what's the next source of funding for payroll at
4 Seguin?

5 A. Our cash collections. We have roughly 60 percent
6 of payroll funded today with cash on hand.

7 Q. And when's the next payroll due?

8 A. Friday.

9 Q. And that's for all four facilities again?

10 A. That's correct.

11 Q. Okay. But you only -- so payroll has to be funded
12 on Friday --

13 A. Friday.

14 Q. -- and you only have 60 percent of what you need --

15 A. On Tuesday.

16 Q. -- on Tuesday.

17 A. So we're in pretty good shape.

18 Q. All right. Without West Wharton, are you
19 testifying that you have enough cash collections to make
20 payroll on Friday?

21 A. On our projection sheet we should be able to fund
22 payroll without the West Wharton funding. But we're not
23 going to have to do that, because West Wharton has already
24 said that they're funding on Thursday.

25 Q. Do you have that in writing from West Wharton?

1 A. No, I don't.

2 Q. And when -- when will that be definitive and
3 enforceable against West Wharton?

4 A. It's sent tomorrow. They've requested a couple of
5 new documents from us that we haven't provided in the past.
6 So they'll have those by midnight tonight.

7 Q. What documents are those?

8 A. They want a split up of the AR by facility. And
9 historically they only wanted a consolidated split. Now they
10 want it split by facility.

11 Q. What's the contingency plan if West Wharton doesn't
12 fund and you don't collect enough between now and Friday?

13 A. Well, typically in a payroll like Friday, if we
14 have 50 percent of the funds available on Friday, payroll can
15 fund because typically it will take Monday, Tuesday, and
16 Wednesday for the rest of payroll to come in. So we're
17 usually able to float that payroll until the following week
18 when we have enough cash collections to cover. And we've
19 done that successfully multiple times. I don't think it will
20 come to that because we're already doing so well. But it's
21 hard when you're recovering from a loss of a million dollars
22 that was taken in two weeks.

23 MR. CARRUTH: Objection; non-responsive.

24 Q. So the -- so the -- the float is part of the
25 strategy?

1 A. No. That's a -- that is the very last choice of
2 the strategies. So typically what we would do if we don't
3 have funds for full payroll, we have leadership team, the
4 management team holds their checks until the following
5 Monday.

6 Q. Okay.

7 A. And we've had to do that several times in the last
8 14 years.

9 Q. Okay. So -- okay. So it's your testimony that you
10 and the other family members are going to get paid last to
11 make sure that this next payroll gets out to the employees?

12 A. Laurie Beth and I never deposit a check until every
13 other employee has received their check and it has cleared.
14 So typically we don't deposit checks for a week after
15 payroll. And we've always done it that way.

16 Q. And if your -- if part of your job is a smooth
17 transition, is that -- that's one of the things that you
18 should continue to do in order to receive money from the
19 bankruptcy estate?

20 A. 100 percent, yes, sir.

21 Q. And since we're all here right now, does that
22 include PointClickCare access for the Seguin facility?

23 A. No, sir, it does not.

24 Q. And why not?

25 A. Because there's no transfer of ownership of the

1 Seguin facility.

2 Q. Okay. But if you don't make payroll, who are you
3 going to ask to fund payroll at Seguin or anywhere else?

4 A. I don't need anybody to fund payroll at Seguin.

5 Q. I'm sorry, my question, though, was, if you don't
6 have West Wharton money and you don't have collections --

7 A. I already have collections for payroll Seguin. So
8 Seguin's fine Friday. And the stay is not lifted for Seguin.
9 The patient care has been immaculate. We've had surveyors in
10 that building monitoring for 11 days --

11 MR. CARRUTH: Objection; non-responsive.

12 THE COURT: Objection sustained.

13 Q. My question is --

14 THE COURT: I need you to just answer the
15 questions proposed to you.

16 Q. -- if you don't -- if you don't have sufficient
17 collections on Seguin, who are you going to ask to fund
18 payroll again?

19 A. I already have sufficient collections for Seguin.

20 Q. I'm sorry, that's not the answer. That's not the
21 question. Who are you going to ask to fund payroll if you
22 don't have sufficient collections for Seguin? Because we've
23 already been through one emergency, so we need to know now
24 what are you going to do?

25 A. I don't know how to answer your question. I don't

1 need any further collections to fund payroll for Seguin on
2 Friday. So I'm not asking anybody to fund payroll on Friday
3 for Seguin.

4 Q. Who did you ask last time to fund payroll when you
5 didn't have enough money? Did you ask the Kilgore landlord
6 entities?

7 A. We negotiated with the landlord to cover payroll,
8 that's correct. And in return, we are turning the facilities
9 back over to the landlord.

10 Q. I understand. But last time you didn't have enough
11 money for Seguin without the other -- without taking from the
12 other properties.

13 A. I don't know that that's true, counselor.

14 Q. Okay. Well --

15 A. I don't know that that's true.

16 Q. If you're not -- in the event that you don't have
17 enough money for payroll, because it's already happened once,
18 in the event that you don't have enough money for payroll,
19 shouldn't you provide PointClickCare access for Seguin also
20 to the Kilgore landlords?

21 A. No, sir. Because the only reason the landlord
22 wants the Seguin PointClickCare access is in order to
23 transition that property to another provider.

24 Q. Isn't that what happens if you can't make payroll
25 again?

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1 A. I don't foresee us having that problem in the Seguin
2 property.

3 Q. Not foresee,, if. You're a fiduciary, I'm asking
4 you what happens if you don't make payroll? Who takes over
5 the property? Or who's going to be responsible for payroll?

6 A. I will be.

7 Q. You will be?

8 A. Uh-huh.

9 Q. Well, you just told -- we just heard that you're
10 living paycheck to paycheck.

11 A. I am.

12 Q. Okay. Then how are you going to make payroll out
13 of pocket when you didn't do it last time?

14 A. I've already answered this question four times.

15 Q. No, you haven't. I'm sorry.

16 A. I have.

17 Q. No. You went to Hawaii two weeks ago. You didn't
18 make payroll out of pocket, because you were in Hawaii two
19 weeks ago, weren't you?

20 A. Yes. For a trip that was paid for a year ago and
21 air flights that were free because my brother-in-law works
22 for American Airlines.

23 Q. But we're all racing around for an emergency and
24 you're in Hawaii two weeks ago.

25 A. That's not true. I was here in this courtroom,

1 counselor.

2 THE COURT: All right. Enough. Enough.

3 MR. CARRUTH: Thank you, Your Honor.

4 Pass the witness.

5 THE COURT: You may.

6 CROSS-EXAMINATION

7 BY MS. KLEIN:

8 Q. Good afternoon, Mr. McPike. Buffey Klein with
9 Husch Blackwell. I just have a couple of questions with
10 regard to the funds that you anticipate receiving from West
11 Wharton this week.

12 A. Yes, ma'am.

13 Q. You testified that you had submitted an application
14 for these funds or otherwise submitted additional
15 documentation requesting the funds. Can you give us some
16 more information about what exactly you submitted to West
17 Wharton?

18 A. Yes, ma'am, I can.

19 We typically submit just the AR aging, just like we
20 submit every month. They wanted the AR aging broken out by
21 facility, not just consolidated so that they could see each
22 facility's AR that they're forwarding.

23 Q. Each -- so you broke it down by each individual
24 facility --

25 A. That's correct.

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1 Q. -- by AR?

2 And can you tell --

3 A. Which just runs right out of weekly care.

4 Q. Can you tell us how much was apportioned to each
5 facility?

6 A. No. I don't have that memorized. It was whatever
7 the Medicaid receivables are for April 1st.

8 Q. How are they typically apportioned amongst the four
9 facilities?

10 A. Whatever the April AR is for --

11 Q. I mean, are they generally equivalent, or are
12 they -- or do you have one facility that typically bills more
13 Medicaid, as opposed to another?

14 A. Well, it's all built on census. So whoever has the
15 highest Medicaid census will have the highest Medicaid AR.

16 Q. Currently which facility, at this time, is -- has
17 the highest census with the most Medicaid AR?

18 A. I don't remember. I looked at it this morning.
19 But it would be a guess, if I answered that. I don't
20 remember. I was working so fast on it and trying to hurry up
21 and get it done, I don't remember what each building was. I
22 think Dallas is the least. But I can't remember the numbers.

23 Q. So you're receiving funds this week that are due
24 and payable to each of the four facilities?

25 A. That's correct. And they'll be allocated that way,

1 by facility.

2 Q. And they're going to be kept by facility going
3 forward?

4 A. That's correct.

5 Q. And this is different than the process that's been
6 undertaken --

7 A. Correct. Because we want to make sure we are
8 facilitating a smooth transition where there's very few
9 questions of what goes where and who goes with what.

10 Q. How much in total have you received from West
11 Wharton?

12 A. Whatever we testified to last time. It's a little
13 over 900,000. We received 300,000 in February and then
14 615,000 or 16,000 in March.

15 Q. And the 700,000 is related to April?

16 A. Correct.

17 Q. And this is pursuant to the management agreements
18 that have been executed --

19 A. Correct.

20 Q. -- with West Wharton?

21 A. Yes, ma'am.

22 MS. KLEIN: Those are the only questions I
23 have, Your Honor.

24 THE COURT: Thank you.

25 THE WITNESS: Thank you.

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1 THE COURT: All right. Have you not been
2 accounting for your ARs by the debtors?

3 THE WITNESS: Always.

4 THE COURT: You have been?

5 THE WITNESS: Yes, ma'am. Our AR is
6 always -- it runs right out of our software system by
7 debtor.

8 THE COURT: Okay.

9 THE WITNESS: Yes, ma'am.

10 THE COURT: All right. So how have you
11 historically accounted for the -- your payroll -- so let me
12 start with you.

13 THE WITNESS: Yes, ma'am.

14 THE COURT: It looks like you're being paid,
15 let's see, \$9,434; is that right, per month?

16 THE WITNESS: Yes, ma'am.

17 THE COURT: And how is that allocated between
18 all of the different debtors?

19 THE WITNESS: So typically -- so my payroll
20 belongs under the debtor that is the LLC, which is the
21 management company. And so it's -- it's paid for by the
22 facilities through the management fee that they pay to the
23 LLC for managing the buildings.

24 THE COURT: Okay. So in that event, we're not
25 actually talking about wages, we're talking about payment of

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1 management fees to a non-debtor entity -- related non-debtor
2 entity?

3 THE WITNESS: It's the LLC.

4 THE COURT: Okay. Is the LLC a debtor?

5 THE WITNESS: Yes, ma'am.

6 THE COURT: Which debtor is that?

7 THE WITNESS: It's Remarkable Healthcare, LLC.

8 THE COURT: Okay.

9 THE WITNESS: Yes, ma'am. And so the payroll
10 for all of the employees that are employed by the LLC, the
11 way the LLC earns its money is through the management
12 agreement that gets paid by the facilities every month.

13 THE COURT: Okay. So how do you allocate
14 between the different LLCs for the management fee?

15 THE WITNESS: Again, we made the decision
16 several years ago, maybe even ten years ago, to sweep all the
17 funds into one account where all of the payables get managed
18 out of the one account by the manager, by the LLC. And so
19 I'm sure that there's a back-office accounting system that
20 does some of that, I'm not -- that's above my area of
21 expertise.

22 THE COURT: Well, it's either you or Laurie or
23 Chris would know, right?

24 THE WITNESS: No, ma'am. In the past --

25 THE COURT: Between the three of you, you

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1 control all of the finances.

2 THE WITNESS: Prior to filing bankruptcy, we
3 had a CFO her name was Diane McPike, She no longer works for
4 the company. She -- we still ask her for her assistance on
5 the weekends and the evenings because she has a wealth of
6 knowledge locked in her brain that we haven't all
7 redistributed yet.

8 And that's not a -- that's not a -- that's not a
9 Remarkable Healthcare exclusive. This is just how we do it.
10 This is the way typically --

11 THE COURT: Well, you all can do it however
12 you want to. But in bankruptcy there are obligations under
13 the Bankruptcy Code that you have to actually allocate, these
14 are the debtors.

15 THE WITNESS: Yes, ma'am.

16 THE COURT: So what I'm trying to understand
17 is, how have you allocated to each of the different debtors/?
18 And you're saying historically you didn't -- or you think
19 they might have, but you don't know what that is. But you're
20 going to have to file reports with this Court.

21 THE WITNESS: Yes, ma'am.

22 THE COURT: And this is not your first rodeo.

23 THE WITNESS: No, ma'am.

24 THE COURT: You all were here in a prior case,
25 right?

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1 THE WITNESS: Yes, ma'am.

2 THE COURT: And so you know your obligations
3 as debtors and debtors in possession --

4 THE WITNESS: Yes, ma'am.

5 THE COURT: -- to provide monthly reporting.

6 THE WITNESS: That's right. That's right.

7 THE COURT: That reporting has to be done on a
8 debtor-by-debtor basis --

9 THE WITNESS: Yes, ma'am.

10 THE COURT: -- both of the income to that
11 debtor and expenses paid by the debtor. What I don't
12 understand is how do you allocate on what would be analogous
13 to corporate GNA --

14 THE WITNESS: So we have individual GNAs. I
15 understand your question now. So we have individual revenue
16 GNAs. All of our cash collections are done by facility. And
17 then all of our payables are done by debtor.

18 THE COURT: So how are you doing your payroll
19 by debtor? That's what I'm asking.

20 THE WITNESS: So in the financial statements
21 there's a management fee that gets allocated to the LLC.

22 THE COURT: How much is the allocation --
23 okay, let me make it simple, okay.

24 THE WITNESS: Yes, ma'am.

25 THE COURT: Seguin has whatever receivables it

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1 has, right?

2 THE WITNESS: Yes, ma'am.

3 THE COURT: Okay. And Seguin has whatever
4 payables it has that's specific to Seguin, right?

5 THE WITNESS: Yes, ma'am, that's correct.

6 THE COURT: Then there are expenses that cut
7 across all of the different debtors, like your work, right?

8 THE WITNESS: Yes, ma'am.

9 THE COURT: The services you perform. And for
10 your services that you're performing for all of the debtors,
11 you are being paid \$9,434 a month, approximately?

12 THE WITNESS: Correct. From the LLC payroll.

13 THE COURT: So how is that allocated to each
14 of the different debtors that are in my court?

15 THE WITNESS: Understood. It belongs to the
16 LLC debtor. It doesn't get -- like my salary doesn't get
17 reallocated to the financials -- to the four operating
18 facilities. It stays within the LLC. We have employees that
19 carry multiple titles at times. I don't know that we have
20 any right now.

21 THE COURT: Okay. Hold on.

22 THE WITNESS: Yes, ma'am.

23 THE COURT: So how does the management company
24 get paid and what is the allocation of the funds that are
25 being paid to the management company?

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1 THE WITNESS: Got it. So in the financial
2 statements, depending upon the performance of the facility,
3 the facilities pay a 3 to 5 percent management fee to the LLC
4 every month. And that's allocated in the financial
5 statements. And that -- those are the dollars that go to pay
6 the LLC payroll.

7 So each month the financial statement shows the dollars
8 that are allocated to the LLC based on the revenue of the
9 facility for that month. So if there's \$500,000 in revenue,
10 there's a 5 percent management fee. That 5 percent
11 management fee of the \$500,000 is allocated to the LLC.

12 THE COURT: So you're only on the payroll of
13 the LLC, right?

14 THE WITNESS: Yes, ma'am.

15 THE COURT: Okay. And you're asking for
16 the -- for permission to pay -- make payroll to pay your
17 payroll out of where?

18 THE WITNESS: Out of the LLC.

19 THE COURT: Okay. Anything else for this
20 witness?

21 MR. CARRUTH: Just briefly, Your Honor, two
22 questions, please.

23 THE COURT: You may.

24

25 (no omission)

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RECROSS-EXAMINATION

2 BY MR. CARRUTH:

3 Q. Mr. McPike, you have received the executed
4 non-disclosure agreements and business association agreements
5 from the Kilgore landlords for each of the four properties,
6 or your counsel has?

7 A. Yes.

8 Q. Okay. And are the books for the debtors in your
9 accounting system, is everything posted and up to date
10 through today?

11 A. No.

12 Q. When's the last -- when's the last date that
13 everything was posted and up to date through?

14 A. I'm not sure. I don't do the posting. But those
15 employees post daily. And we are just now going to work on
16 fourth quarter -- first quarter financials. So they have
17 payments to post. They still have invoices to post. Payroll
18 to upload, specifically in to March so that we can get those
19 financials completed.

20 Q. Are the January financials completed?

21 A. They have gone through first runs. I don't believe
22 they're final yet.

23 MR. CARRUTH: Pass the witness.

24 THE COURT: Anything further?

25 MS. RAHN: Nothing else for the debtor.

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1 THE COURT: All right. The witness may step
2 down.

3 THE WITNESS: Thank you, Your Honor.

4 THE COURT: All right. Anything further from
5 any of the parties?

6 MR. CARRUTH: Not in terms of evidence, Your
7 Honor. Just a brief closing.

8 THE COURT: I'll hear your closing.

9 MR. CARRUTH: Thank you, Your Honor.

10 If -- I mean, I think the Court heard a lot in the last
11 few minutes. But if the -- and I guess the frustrating thing
12 is that there's never any specifics on numbers when there's
13 testimony in this case, or amounts. But if the concept is to
14 transition the three properties that the stay has been lifted
15 on and that is part of the rationale for payroll, then that
16 ought to be expressly conditioned for the management payroll.

17 And then with respect to the PointClickCare access for
18 Sequin. Once again, if these two individuals, or three or
19 four individuals, but especially Mr. McPike and Mrs. McPike,
20 they are State fiduciaries being paid by the estate, we don't
21 have specific numbers. We don't have specific commitments.
22 We don't have certainty that payroll is going to be made,
23 especially on Seguin at this point. With that in mind,
24 because there are going to be -- or we've had demonstrated
25 emergencies in this case already. The landlord, for better

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1 or for worse, is probably the backstop in case something
2 happens again. I don't want to commit to that yet. But, you
3 know, it seems -- it seems like an obvious place to go.

4 So if they're going to be State fiduciaries, if we're
5 going to have emergencies -- we've had emergencies already.
6 And if they're going to get paid under Court supervision, the
7 PointClickCare access for the Seguin facility ought to be
8 turned on also. And that ought to be what's conditioned
9 today for -- if any insider payroll is to be had in this
10 case, and if we're going to pay the fiduciaries to be
11 fiduciaries, the PCC access ought to be turned on for Seguin,
12 also, so that we have visibility into that property also in
13 case other emergencies happen, in case we have to come in and
14 take over that also.

15 And that's over and above the fact -- beside the fact
16 that we're the landlord and they owe us \$3 million any way.
17 But -- and Mr. Kilgore has explained, I think, to the Court
18 one or more occasions that he has that access all over the
19 place. The hang up to date has always been -- and I think
20 the Court heard this in the last case. The Court has heard
21 some of that in this case. The hang up on PCC access so far
22 has been, well, the BAA and the NDA. Well, those were
23 signed. They were sent back. And then access was turned on
24 for the other three properties. That's not an issue then.
25 So the PCC access for Seguin ought to be turned on also, if

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1 they're going to get paid anything at this point.

2 Thank you.

3 MS. KLEIN: Your Honor, if I may just briefly.

4 On behalf of Alleon Capital, Buffey Klein.

5 The testimony today, I think, is of -- is concerning
6 for a couple of reasons. And I think that what has been --
7 and what I believe will continue to be concerning is the
8 commingling of funds and how they've been able to make
9 payroll across the facilities by utilizing funds from each
10 one. I think what we have not heard is going forward. And I
11 understand that is not necessarily the issue for today. But
12 I do believe we need some more specificity from the debtors
13 on exactly how they intend to operate the facilities as
14 independent functioning facilities and maintaining their
15 ability to meet payroll at each of those independent of the
16 others.

17 I don't believe we've heard -- and I think especially
18 the testimony today did not provide any clarity to -- to the
19 creditors as to how that was going -- how that was going to
20 be undertaken or how it's been going on previously,
21 especially with regard to the Seguin facility itself. And I
22 think that our concern is going forward making certain that
23 that is provided to the creditors and more clear for the
24 Court as to exactly how these facilities are functioning
25 independently, how they're funding the management company,

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1 and how each of these debtors are operating as independent
2 companies.

3 THE COURT: Okay. Is 5 percent of revenues,
4 is that outside the norm?

5 MS. KLEIN: Your Honor, as far as the norm on
6 a management fee --

7 THE COURT: For a management company. I
8 thought --

9 MS. KLEIN: I think the management agreement
10 with West Wharton provides for that type of a fee.

11 THE COURT: Okay.

12 MS. KLEIN: I don't know that that's abnormal.
13 But I don't know that, again, we've seen how individual --
14 these individual facilities are able to actually accomplish
15 payment of that fee, either.

16 THE COURT: Well, they're all paying 5 percent
17 of their revenues, right? That's what he's suggested. Am I
18 misunderstanding the testimony?

19 MS. KLEIN: I, again, I don't believe that we
20 heard how each of those facilities were able to make their
21 independent payroll and also pay that 5 percent fee.

22 MR. CARRUTH: Well, Your Honor --

23 THE COURT: Well, they're not paying their
24 landlords, I'm sure that's what you're getting ready to say.

25 MR. CARRUTH: Amen, Your Honor. Thank you.

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1 THE COURT: Okay. He says that at every
2 hearing, so that's why I knew what he was going to say when
3 he got up. Okay. And there's no dispute about that.

4 Okay. So here we are.

5 MS. RAHN: Your Honor, may I say something?

6 THE COURT: Yes, ma'am, I'll hear your
7 closing.

8 MS. RAHN: So as you heard landlord and
9 landlords' counsel has made it clear that the McPikes are
10 necessary for this transition to the new operator. And if
11 they're needed right here/right now, but they're not going to
12 get paid, they don't really have the time necessary to go out
13 and get a job where they can be paid and continue to be the
14 fiduciaries that these estates -- they're expected to be.
15 And this is why generally debtors pay in the ordinary course
16 of business the salaries of their employees to keep them
17 onboard, especially since landlord has admitted that the
18 McPikes are necessary to a smooth transition.

19 THE COURT: Okay. So here's what we're going
20 to do, okay. First, the debtor needs to make sure that the
21 landlord has the PointClickCare access provided that -- to
22 Seguin facility. Provided that the landlord gets that
23 access, the debtor may make their management fee payments to
24 the LLC and the LLC is thereafter authorized to pay
25 pre-petition wages to the insiders. And the Court is also

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1 approving the prior payments to all other employees as
2 authorized by the Court at the interim hearing on a final
3 basis. The Court is doing that in part because the amount to
4 be paid to each of the insiders, that being Laurie Beth
5 McPike, Jon McPike, and Chris McPike is less than the
6 priority amounts of their wage claims. And so they would be
7 entitled to be paid on a priority basis any way. Okay.
8 So I'm going to authorize that.

9 But I need you all to make sure that the payments are
10 coming from the proper source. The testimony was he gets
11 paid from the management company, from the LLC. And so they
12 can get paid from the LLC. And they're entitled to charge
13 their 5 percent to the debtor so that money can flow to the
14 LLC in the ordinary course of business and they can get paid
15 from that. That way we don't have to worry about allocating
16 each of the management personnel to the various debtors, at
17 least not yet. Maybe there will come a time in the future we
18 will need to do that. But that payment can be made after
19 they get PointClickCare access, okay.

20 So -- and, of course, the landlord has to deliver
21 appropriate non-disclosure and other documents consistent
22 with what they've done with the other facilities, or are
23 doing with the other facilities. Those need to be signed
24 immediately. Okay?

25 MS. RAHN: Your Honor, we also emailed with,

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1 Kayla, your Court Clerk, about our motion for extending the
2 deadline to file the schedules. And we conferred with the
3 U.S. Trustee on an extension to April 16th because we've been
4 putting out fires and dealing with the transition and haven't
5 had a chance to --

6 THE COURT: When's the 341 Meeting?

7 MS. RAHN: It's April 22nd. So we spoke with
8 the Trustee and that gives three full business days prior to
9 the 341 Meeting.

10 THE COURT: Okay. Is there any objection to
11 that that you all want a hearing for some reason?

12 MR. CARRUTH: No objection, Your Honor.

13 MS. KLEIN: No objection, Your Honor.

14 THE COURT: Okay. You can submit an order
15 consistent with your agreement with the U.S. Trustee. But
16 make sure that the form of order notes that the U.S. Trustee
17 has agreed. Okay?

18 MS. RAHN: Yes. Yes, Your Honor.

19 THE COURT: Thank you.

20 All right. Anything else for today?

21 MR. CARRUTH: Your Honor, a bit of
22 housekeeping.

23 I think on Thursday this week, April 4, we have a
24 hearing on the DIP, the emergency DIP for the payroll. And
25 then we have a hearing on the 8th, also. We probably need to

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1 get something on -- or I might need to get something on file.
2 But I think it would probably make more sense to move the 4th
3 to the 8th, or the other hearings on the 8th, if possible.

4 THE COURT: Do you all want that to wait until
5 the 8th? We're talking about payroll, right, or the DIP
6 for -- you've already made the payroll --

7 MR. CARRUTH: Yeah, yeah, it's for that one.

8 THE COURT: Yeah. If you all -- if you all
9 agree to continue it to the 8th, we can continue it to the
10 8th. We just need to notice it out.

11 MR. CARRUTH: Okay. All right. Is that --

12 MS. RAHN: I'm checking schedules.

13 MR. CARRUTH: I mean, I think we already
14 have --

15 MS. RAHN: Oh, we're already on the docket.
16 Then, yeah that's --

17 MR. CARRUTH: Now, you know, things may happen
18 and we may be back here on the 4th any way. But for the one
19 that's already happened, I still need to finish paperwork
20 with debtor.

21 THE COURT: What exactly do you mean, things
22 may happen and you might be here any way?

23 MR. CARRUTH: Well, I mean, if there's another
24 emergency, we may have to come back on another DIP. That's
25 all I'm saying. But I'm not --

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1 THE COURT: Well, then we would -- you'd have
2 to file your motion and we'd have to set it, right? Because
3 if I'm going to take it off the docket right now, I'm getting
4 ready to instruct my courtroom deputy to --

5 MR. CARRUTH: Yes, Your Honor. The existing
6 DIP I'd like to move to the 8th, please.

7 THE COURT: Okay. It can be continued to the
8 8th. And then you can submit the -- but you need to notice
9 it out that it's being continued to the 8th.

10 MR. CARRUTH: Yes, Your Honor.

11 THE COURT: And then, yeah, if there's
12 anything else filed, you're going to have to request a
13 hearing because I'm freeing that time up for other matters.

14 MR. CARRUTH: Yes, Your Honor, understood.

15 THE COURT: Anything else?

16 MR. CARRUTH: No, for us.

17 THE COURT: Thank you.

18 MR. CARRUTH: Thank you.

19 THE COURT: All right. Parties are excused.

20 (End of Proceedings.)

21

22

23

24

25

C E R T I F I C A T E

I, CINDY SUMNER, do hereby certify that the foregoing constitutes a full, true, and complete transcription of the proceedings as heretofore set forth in the above-captioned and numbered cause in typewriting before me.

/s/Cindy Sumner

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